THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on : 03.07.2007

\+ **WP (C) 13028/2005**

ARDESHIR B. CURSETJEE & SONS LTD ...Petitioner

- versus -

INLAND WATERWAYS AUTHORITY OF INDIA AND ANOTHER ...Respondents

Advocates who appeared in this case:

For the Petitioner : Mr Rajiv Nayyar Sr Advocate with Mr Rishi Aggarwal and Mr B.S. Shukla

For the Respondent 1 Mr Alok Krishan Aggarwal with Ms Nikita Mehra and Mr Mayank Bighani.

For the UOI : Ms Monika Garg.

CORAM:-
HON'BLE MR JUSTICE BADAR DURREZ AHMED

1. Whether Reporters of local papers may be allowed to see the judgment?

2. To be referred to the Reporter or not?

3. Whether the judgment should be reported in Digest?

BADAR DURREZ AHMED, J (ORAL)

1. The counsel for the parties have been heard at some length.

2. The issue involved in the present petition falls within a very narrow compass. The question pertains to the petitioner's claim under the Loan Interest Subsidy Scheme for Inland Water Travel Entrepreneurs. Initially, there was a Notification dated 11th January, 1983, which superseded the previous communication on the question of Loan Interest Subsidy Scheme. The category of vessels which was admissible for loan interest subsidy was notified to include "acquisition of new inland vessels". Subsequently, by a Notification dated 21.5.1999, the Government of India revised the Loan Interest Subsidy Scheme. This Notification was in supersession of the earlier Notification of 11.1.1983. It provided a different and larger category of vessels eligible for interest subsidy. Under Clause V (c) of the Notification, acquisition of new mechanised vessels and modernisation including conversion /modification /jumboisation of mechanised vessels/dumb barges were included. Under Clause V (e) acquisition of indigenous imported second hand vessels with functional life of at least ten years, as certified by an approved classification agency, was also provided.

3. The petitioner is said to have made its claim for interest subsidy through ICICI Ltd. This claim was made sometime in the year 2000. The same was processed by the respondent No.1 (Inland

Waterways Authority of India). By the impugned letter dated 15/8-2-2002, the claim was rejected. The reasons given in the impugned letter are as under:-

> "Please refer to the claims for payment of interest subsidy on loan granted for above vessels. Authority has examined the claims as per details furnished alongwith claims and it is observed that both the vessels `ABC XIX and `ABC XX' are new Imported vessels, constructed and supplied by a Mauritius Company.
>
> As per clause V (e) of Revised Loan Interest Subsidy Scheme regarding category of vessels eligible for interest subsidy, acquisition of only indigenous/imported second hand vessel with functional life of at least 10 years as certified by an approved classification agency, is eligible. Therefore, both the above vessels are not found eligible for payment of interest subsidy and competent authority has decided to reject the claims."

4. The learned counsel for the petitioner contended that Clause V(e) of the revised Loan Interest Subsidy Scheme was not at all applicable to their case because their vessels were not second hand vessels but were new vessels. According to him, they were covered under Clause V(c) of the said Scheme. It appears that the respondent No.1 has only considered Clause V(e) as the applicable clause and since the petitioner's case clearly was not within that Clause, it was rejected. An order has to be supported or rejected on the basis of the reasons indicated in the order itself. This is a well settled principle of law.

According to the learned counsel for the respondents, this was not only the reason for rejection of the claim and that there are other reasons also for which he requested this Court to examine the background of the matter. Unfortunately, as already indicated above, the order stands or falls on the basis of the reasons given therein. This order, in my view, is inadequate and cannot stand the test of reason or logic. The order has to go.

5. Accordingly, the impugned order dated 15/18.2.2002 is set aside. However, the petitioner is directed to furnish a fresh claim routed through ICICI Limited to the respondent No.1 (Inland Waterways Authority of India), who shall then process the claim in accordance with the applicable Scheme and take an appropriate decision on merits. The fresh claims would be furnished by the petitioner, as indicated above, within four weeks from today and the decision shall be taken by the respondent No.1 within four months thereafter.

6. This writ petition stands disposed of accordingly. No costs.

BADAR DURREZ AHMED
(JUDGE)

July 03, 2007
J